

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BUWLUS A. MUHAMMAD,	)	
	)	
Plaintiff,	)	Civil Action No. 07-27E
	)	Judge Cohill
v.	)	Magistrate Judge Bissoon
	)	
U.S. MARSHAL SERVICE, <i>et al.</i>	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Buwlus Muhammad's complaint was received by the Clerk of Court on February 22, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates. Magistrate Judge Baxter entered an Order of Recusal on August 18, 2009 (Doc. 77), and the matter was thereafter assigned to Magistrate Judge Cathy Bissoon.

The Magistrate Judge's Report and Recommendation, filed on October 27, 2009, recommended that the Motions for Summary Judgment filed by the two remaining Defendants (Docs. 66 and 67) be granted. The parties were allowed ten days from the date of service to file objections. Objections were due on or before November 10, 2009, and Plaintiff Muhammad timely filed objections on November 9, 2009.

Plaintiff's objections do not address the rationale offered by Magistrate Judge Bissoon for granting summary judgment to Defendants Kinnane and Shroeder. Instead, Plaintiff argues that he filed an Amended Complaint in this matter on March 2, 2009, and re-filed the same document

on March 29, 2009. Plaintiff asserts that he has been denied his right to due process because the Court has not addressed his claims against new Defendants, Magistrate Judge Baxter, Assistant United States Attorney Marshal Piccinini and United States Marshal William Burton. A review of a related habeas corpus proceeding filed by Plaintiff shows that Plaintiff filed a motion to amend at that case (Civil Action No. 07-22E, Doc. 48) on March 27, 2009. Plaintiff did attempt to amend the Complaint in this case on May 20, 2009, but he did not include in that proposed amendment any claims against Magistrate Judge Baxter, AUSA Piccinini, or Marshal Burton (Doc. 64). Plaintiff's claim that he filed an Amended Complaint is incorrect, and his argument that he has been denied due process by the Court's failure to address claims supposedly presented in that Amended Complaint lacks merit<sup>1</sup>.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 16<sup>th</sup> day of November, 2009,

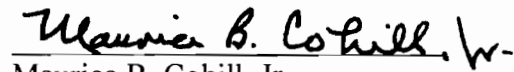
IT IS HEREBY ORDERED that the Motion for Summary Judgment filed by Defendant Kannine (Doc. 66) is GRANTED.

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<sup>1</sup> All of Plaintiff's purported new claims arise from the same mistaken premise shared by the claims already addressed, *i.e.*, that Plaintiff was improperly held at the Erie County Prison from July 29, 2005, through November 28, 2007. As noted in the Magistrate Judge's Report, Plaintiff has no valid claim arising from his incarceration at the Prison because he was, at all times, held in the Prison pursuant to a valid court order directing that this occur (Doc. 57). And, in any event, Magistrate Judge Baxter is absolutely immune from suit for actions taken in her judicial capacity.

IT IS FURTHER ORDERED that the Motion for Summary Judgment and Motion for Judgment on the Pleadings (Doc. 67) filed by Defendant Schroeder are GRANTED.

The Report and Recommendation of Magistrate Judge Bissoon (Doc. 79) dated October 27, 2009, is adopted as the opinion of the court.

  
Maurice B. Cohill, Jr.  
United States District Court Judge

cc:  
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